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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,036	04/19/2004	Chang JY Richard Wu	RWU002	2377
46396	7590	11/17/2005		
CHEIN-HWA S. TSAO 6684 MT PAKRON DRIVE SAN JOSE, CA 95120				
EXAMINER AMERSON, LORI BAKER				
ART UNIT 3764				
PAPER NUMBER				

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/827,036		Applicant(s) WU ET AL.	
	Examiner L. Amerson		Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 19 April 2004.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-34 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because line 1, "guide is disclosed to" should read –guide to—. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims are objected to because of the following informalities:
 - a. Claim 6, line 1, "optional" should be deleted;
 - b. Claims 1-34, every occurrence of "said pre-existing object" is indefinite. The examiner questions whether applicant is attempting to claim prior art or a second invention within this application. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

 - c. Claims 1- 34 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. **The claim(s) are narrative in form and replete with indefinite and functional or operational language.** The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.
 - d. Claims 26-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention. Although the body of the claims attempts to set forth the steps of making or using a product or process, the preamble is not directed to one of the two acceptable statutory classes for a method. Correction is required. A prior art rejection has not necessarily been made.

e. Claims 14 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has attempted to positively recite non-statutory subject matter, e.g., "two trees". A positive recitation in this manner is prohibited.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

f. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Becket et al. Becker et al discloses a foot engaging means 24, body engaging means 76 and a framing structure 34 connected to the foot and body means. Regarding the language, "for guiding and engaging at least one foot of the user", "for guiding and engaging at least one part of the user's body", "wherein at least.... user" have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claims 2-4, the

dimensions are adjustable (fig. 7-9). Regarding the language, "to guiding and engaging the user's feet and boy", "thereby accommodating a pre-determined range of user body and feet variation" have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 5, the body engaging means comprises a hand engaging means. Regarding the language, "for guiding and engaging at least one of user's hands" has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure.

g. Claim 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiser. Kiser discloses a foot engaging means 2, body engaging means B and a framing structure F, S (fig. 3) connected to the foot and body means. Regarding the language, "for guiding and engaging at least one foot of the user", "for guiding and engaging at least one part of the user's body", "wherein at least....user" have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 5, the body engaging means comprises a hand engaging means (fig. 3). Regarding the language, "for guiding and engaging at least one of user's hands" has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure.

h. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimojima et al. Shimojima et al discloses a foot engaging means 120, body engaging means 118 and a framing structure 110 connected to the foot and body

means. Regarding the language, “for guiding and engaging at least one foot of the user”, “for guiding and engaging at least one part of the user’s body”, “wherein at least....user” have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 5, the body engaging means comprises a hand engaging means (fig. 1). Regarding the language, “for guiding and engaging at least one of user’s hands” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 6, the device comprises a display 130.

i. Claim 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson. Johnson discloses a foot engaging means 427 body engaging means 501 and a framing structure 502,503 connected to the foot and body means. Regarding the language, “for guiding and engaging at least one foot of the user”, “for guiding and engaging at least one part of the user’s body”, “wherein at least....user” have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 5, the body engaging means comprises a hand engaging means (fig. 1). Regarding the language, “for guiding and engaging at least one of user’s hands” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

j. Claims 7-8, 12-17, 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al as applied to claim 1 above, and further in view of Johnson and Urso. Regarding the language in lines 1-22, 34-48, and "for guiding and correctly positioning the user's feet of stances S1, S2, S3 and S4", "for touching thus correctly positioning the user's elbows of stances S3 and S4", "for guiding thus correctly positioning the user's fists of S1 and S2 through fist gripping" has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. Becker et al discloses all of the limitations of the claimed invention except for a separate feet board, two elbow-engaging members. Johnson teaches a separate feet board and Urso teaches a device having elbow engaging members in Figure 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a board for each foot so that a user has the flexibility for a variety of positions while exercising and elbow engaging members such that the members provide flexibility to the user while exercising. As to claims 12-16 and 21-25, the language has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure.

k. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al, Johnson and Urso as applied to claim 8 above, and further in view of Schaeffer. Regarding the language "so as to provide a snug engagement to the two separated, opposing vertical surfaces of a variety of said preexisting object" has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. Becker et al discloses all of the limitations of the claimed invention except for an adjustable bar. Schaeffer teaches an adjustable bar. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Becker et al in view of the teaching of Schaeffer such that an adjustable bar provides flexibility to the user while exercising.

l. Claims 10-11 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al, Johnson and Urso as applied to claim 8 above, and further in view of Holworthy. Regarding the language "for guiding and correctly positioning the user's open-palmed hand of stances S3 and S4" has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. Becker et al discloses all of the limitations of the claimed invention except for a hand loop. Holworthy teaches a hand loop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Becker et al in view of the teaching of Holworthy such that a hand loop provides a secure grip for grasping while exercising.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lori Amerson